HIGH COURT OF CHHATTISGARH AT BILASPUR

CORAM : Hon'ble Shri Jagdish Bhalla, Ag. CJ. &
Hon'ble Shri Dilip Raosaheb. Deshmukh, J.

Writ Appeal No. 96 of 2007

JUDGMENT FOR CONSIDERATION

Sd/-

Ag. CHIEF JUSTICE
17 /07/2007

HON'BLE SHRI D.R. DESHMUKH, J.

I agree.

Sd/-
Dilip Raosaheb Deshmukh
Judge

POST FOR PRONOUNCEMENT
OF THE JUDGMENT : 18 /07/2007

Sd/-
Ag. Chief Justice

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. &
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Appeal No. 96 of 2007

APPELLANT : Parvatia, W/o Ram Prasad, aged about 46 years, R/o Village and Panchayat Govinvan, Police Station Bilaigarh, District Raipur (C.G.)

VERSUS

RESPONDENTS

1. Padmini, W/o Jagannath Kalaar
2. Geeta Devi, W/o Rajesh Satnami
3. Draupadi bai, Widow of Santram Caste Gada
4. Janki Bai, W/o Labhoram, Caste Sahu
5. Renuka, W/o Rahman Singh, Caste Thakur
6. Hem Bai, W/o Hemlal, Caste Kalaar

   The respondents No.1 to 6 are resident of village and Panchayat Govinvan, P.S. Bilaigarh, District Raipur (C.G.)
7. Presiding Officer, Polling Booth No.114,
8. Presiding Officer, Polling Booth No.115
9. Returning Officer Cum Nayab Tahsildar
10. Sub Divisional Officer, Bilaigarh, District Raipur (C.G.).
11. M.D. Kanvre, Sub Divisional Officer, Tahsil Bilaigarh, District Raipur (C.G.).

Writ Appeal under Section 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act 2006 read with Rule 157 (10) (a) of the High Court of Chhattisgarh Rules,2005.

Present : Shri Rajesh Pandey, counsel for the appellant.
Shri N.K. Agrawal, Deputy Advocate General, for the State.

JUDGMENT

(Delivered on 18th, July, 2007)

The following order of the Court was passed by **Jagdish Bhalla, Ag. CJ.**

This writ appeal is directed against the order dated 17.04.2007, passed by Hon'ble Single Judge dismissing the writ petition No.1571/2006, filed by the appellant/petitioner.

Brief facts of the case are that earlier Writ Petition No.3187/2005 was filed by the petitioner challenging the recounting of votes leading to election of respondent No.1 as Sarpanch. Hon'ble Single Judge allowed the writ petition after quashing the order of the Specified Officer and remanded the matter with a direction to decide the same after giving opportunity of hearing to the parties and to adduce evidence. In light of the above direction, the Specified Officer after hearing the parties directing recounting of votes by order dated 21.03.2006. Aggrieved by the said order, the appellant/petitioner has filed writ petition No.1571/2006 which was dismissed by the impugned order dated 17.04.2007. Hence, this writ appeal.

The writ petition is titled as "Writ Petition under Article 226/227 of the Constitution of India."

Learned counsel for the appellant / petitioner was called upon to address this Court on the question of maintainability of this writ appeal. Learned counsel submitted that since the writ petition has been filed under Article 226 and Article 227 was just mentioned along with it, this writ appeal was maintainable.

We are of the opinion that this appeal is squarely covered by the view expressed by this Bench *in re* ***Chhattisgarh Chemical Mill Mazdoor Sangh Vs. Director, Keystone Industries Ltd. & others (W.A.(PR) No.3486 of 2007)*** . In this case also, the controversy involved does not originate before the High Court. The order of Election Tribunal was under challenge before the Hon'ble Single Judge. In such circumstances, from the appreciation of the judgment referred to hereinabove and in the facts and circumstances of the case, it can be said that no writ appeal is maintainable.

In light of the above discussion, the writ appeal is not maintainable and the same is dismissed as such.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge